IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 343 of 2005 (S/B)

1. Dr. I.P. Sharma,
   Officiating Deputy Directorate,
   Ayurvedic Evam Unani Seva Directorate,
   Dehradun, Uttaranchal.
2. Dr. Prabhu Dutt Sharma,
   Officiating Deputy Director,
   Ayurvedic Evam Unani Seva Directorate,
   Dehradun, Uttaranchal. ..... Petitioners

Versus

1. State of Uttaranchal through its Secretary
   Medical and Health and Medical Education,
   Dehradun, Uttaranchal.
2. The Director, Ayruvedic and Unani Services,
   Uttaranchal, Dehradun.
3. The Secretary, State Reorganisation Department,
   Dehradun, Uttaranchal.
4. Union of India through its Secretary,
   Department of Personnel and Training,
   Govt. of India, Lok Nayak Bhawan,
   3rd Floor, Khan market, New Delhi – 110003.
5. The Director (SR),
   Department of Personnel and Training,
   Govt. of India, 3rd Floor,
   Lok Nayak Bhawan, Khan Market,
   New Delhi -110003.
6. The Chairman, State Advisory Committee,
   Gate No. 31, Jahawar Lal Nehru Stadium,
   Lodhi Road, New Delhi – 110003.
7. The Principal Secretary,
   U.P. Reorganisation Coordination Department /
   Member Secretary, State Advisory Committee,
   Section-I, U.P. Secretariat,
   Vikas Bhawan, Lucknow,
   Uttar Pradesh.
8. The Director, Ayurvedic and Unani Services,
   Uttar Pradesh, Lucknow.
   Govt. of U.P., Lucknow. ..... Respondents

Mr. P.S. Rawat, Advocate for the petitioners.
Mr. J.P. Joshi, Addl. Chief Standing Counsel for the State of Uttaranchal.
Mr. S.P.S. Panwar, Addl. Chief Standing Counsel for the State of U.P.
Ms. Anjali Bhargava, Addl. Standing Counsel (Central Govt.).

JUDGMENT

Coram: Hon. Cyriac Joseph, C. J.
Hon. Irshad Hussain, J.

CYRIAC JOSEPH, C.J. (Oral)

1. The petitioners are officiating Deputy Directiors in the Ayurveda and Unani Department of the Government of Uttaranchal. They were employees of the erstwhile State of U.P. On bifurcation of the State of U.P. and creation of the State of Uttaranchal, the petitioners opted for the State of Uttaranchal. But the names of the petitioners are not included in the Final Allocation List of officers allotted to the State of Uttaranchal.

2 Learned counsel for the petitioners submits that the first petitioner is due to retire from service on superannuation on 28.02.2006 and second petitioner is due to retire from service on superannuation on 31.08.2007. It is contended that there is no justification for excluding the names of the petitioners from the Final Allocation List of officers allotted to the State of Uttaranchal. Learned counsel for the petitioners further submits that the petitioners may be permitted to make representations to the sixth respondent against the exclusion of their names from the Final Allocation List and the sixth respondent may be directed to consider and pass appropriate orders on such representations and till the disposal of the representations, the petitioners may not be relived from the service of the Government of Uttaranchal. It is also contended by the learned counsel for the petitioners that may posts of Ayurveda Doctors are lying vacant in the State of Uttaranchal and that there is need for more Ayurveda Doctors in the State of Uttaranchal.

3. We have heard Mr. J.P. Joshi, Addl. Chief Standing Counsel for the State of Uttaranchal who accepted notice for respondents Nos. 1, 2

and 3; Ms. Anjali Bhargava, Addl. Standing Counsel (Central Govt.) who accepted notice for respondents Nos. 4, 5 and 6 and Mr. S.P.S. Panwar, Addl. Chief Standing Counsel for the State of U.P. who accepted notice for respondents Nos. 7, 8 and 9.

4. Having heard learned counsel for the parties and having perused the materials placed on record, we are of the view that the petitioners should be given an opportunity to make representations to the sixth respondent and till the disposal of the representation, they should be allowed to continue in the service of the Government of Uttaranchal.

5. Hence, the writ petition is disposed of with a direction that if the petitioners make representations to the sixth respondent within two weeks from today in respect to their claim for allotment to the State of Uttaranchal, the sixth respondent shall consider such representations and pass appropriate orders in accordance with law as expeditiously as possible and at any rate, within a period of three months from the date of receipt of the representations. Till the representations are disposed of by the sixth respondent, the petitioners shall not be relieved from the service of the Government of Uttaranchal. If the petitioners fail to make the representations within two weeks as directed above, the above directions shall stand recalled.

(Irshad Hussain, J.)
21.12.2005

(Cyriac Joseph, C.J.)
21.12.2005

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